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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,599	12/05/2003	David Carter	87289.1083	7508

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EXAMINER

TANNER, HARRY B

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/727,599	Applicant(s) CARTER, DAVID	
	Examiner Harry B. Tanner	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7-11,14,15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 11,14,15 and 17-21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 4-5 and 7-10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is confusing since it appears to recite a sensor assembly that provides a measured value and a calculated value and then recites that the heater is switched on when the "surface temperature" attains the "measured value". Is this "measured value" the measured "surface temperature"? If the "measured value" is not the surface temperature, then where does the control obtain the surface temperature? Furthermore, if the "surface temperature" is the "measured value" then when does the "surface temperature" ever not attain the "measured value"?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochheiser in view of Beatenbough. Hochheiser discloses a sensor assembly unit configured to output a calculated value from resistor 80 and a measured surface temperature value using surface temperature sensor 70 in order to control the heater 64 using switching unit 66 in response to control unit 154-82 in order to prevent condensation on the surfaces of refrigerated cabinets (see col. 4, lines 58-68).

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Beatenbough teaches turning an electric heater 18 of a refrigerator on and off in response to detected dew point to prevent condensation on the door seal mating surface 12 of the refrigerator. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Hochheiser such that it included the use of turning an electric heater on the door seal mating surface of the refrigerator in order to prevent condensation on the door in view of the teachings of Beatenbough.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochheiser in view of Beatenbough as applied to claim 1 above, and further in view of admitted prior art. It is taken to be admitted prior art that door latches including door latch assemblies and door latch assembly covers are well known in the refrigeration art in view of applicant's response to the Official Notice of same in the previous Office Action. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Hochheiser such that it included the use of door latch assemblies and door latch assembly covers. The location of the temperature sensor in the door latch assembly is considered to have an obvious matter of engineering design since the operation of the heater control would not be substantially altered with the sensor moved to that location.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochheiser in view of Beatenbough as applied to claim 1 above, and further in view of Ibrahim. Ibrahim teaches the use of heat from refrigerant gas controlled by an electromechanical valve 84 in order to prevent condensation on the refrigeration system

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cabinets. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Hochheiser such that it included the use of heat from refrigerant gas controlled by an electromechanical valve in order to prevent condensation in view of the teachings of Ibrahim.

Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claims 11, 14-15 and 17-21 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner". The signature is fluid and cursive, with the first name "Harry" and last name "Tanner" clearly distinguishable.

Harry B. Tanner
Primary Examiner
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